

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAMIEN T. WHITE,

Petitioner,

v.

CIVIL ACTION NO. 04-CV-75071-DT
HONORABLE GEORGE CARAM STEEH

JOHN CASON,

Respondent.

**ORDER GRANTING RESPONDENT'S MOTION TO WITHDRAW MOTION TO
DISMISS AND WITHDRAWING RESPONDENT'S MOTION TO DISMISS**

Petitioner Damien T. White, a state prisoner currently confined at the Muskegon Correctional Facility in Muskegon, Michigan, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 alleging that he is incarcerated in violation of his constitutional rights. This matter is before the Court on Respondent's motion to dismiss the petition as untimely and subsequent motion to withdraw that motion.

Having reviewed the pleadings and considered the matter, the Court finds that Respondent's motion to withdraw the motion to dismiss should be granted. It appears from the pleadings and the state court record that the habeas petition was filed within the one-year statute of limitations applicable to federal habeas actions. Accordingly,

IT IS ORDERED that Respondent's motion to withdraw is **GRANTED** and that Respondent's motion to dismiss shall be considered withdrawn.

s/George Caram Steeh

GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: October 3, 2005

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on October 3, 2005, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk